

Message

From: Johnston, Tom [TLJ@adem.alabama.gov]
Sent: 10/24/2017 9:30:37 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: LeFleur, Lance R [llefleur@adem.alabama.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: ADEM Technical Assistance Letter - ADEM Reply
Attachments: ADEM TA Letter (ADEM Edits-Redlined Version) (10-24-17).docx; ADEM TA Letter (ADEM Edits-Clean Version)(10-24-17).docx; ADEM TA Letter (ADEM Edits-Clean Version)(10-24-17).pdf

Lilian:

At the request of our Director, and in response to your email of October 17, 2017, please find attached ADEM's edits to your draft *Technical Assistance Letter*. We are providing our edited response in MS Word (with tracked-changes), MS Word (clean copy with all tracked-changes accepted), and in Acrobat .pdf file format (clean copy). For your convenience, we have attempted to capture all editorial changes in the tracked-change Word document, but there may be some omissions due to the nature of our edits.

We have modified your draft of the *Technical Assistance Letter* to read less like a binding and enforceable "compliance agreement" and more like the acknowledgment of ADEM's improvements toward a model program that we were expecting based on Kevin Minoli's conversations with our Director.

In addition, we note the following specific objections as reflected in our edits. We object to the negative connotation of saying ADEM is meeting "minimum" requirements. Either ADEM is in compliance with Title VI requirements, or it is not. Accordingly, where the phrase appears in your draft we have modified it to read that ADEM is in compliance, period. We also object to the inclusion of footnote references to the numerous deliberative letters between ECRCO and ADEM regarding the pending complaints. In our edits we have deleted all references to deliberative communications. In the alternative, should EPA insist on the inclusion of ECRCO's letters, we would insist on also referencing ADEM's letters in response.

Thank you for the draft letter. We look forward to your office closing the pending Title VI complaints against ADEM in the near future.

Thomas L. Johnston
General Counsel



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